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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.376 of 2007

Manohar Bandopant Hajare & Ors. ..Petitioners

Versus

The President, Municipal Council
Mangalwedha & Ors. ..Respondents

Mr. I.M. Khairdi, for the Petitioenrs.
Mr. P.P. Kakade, AGP for the respondent Nos.3,5 to 8.

CORAM : F.I. REBELLO &
R.M.SAVANT, JJ.
DATED : 20TH MARCH, 2007.

P.C.

. Rule. Heard forthwith.

2. The petitioner brings to our attention resolution dated 10th November, 2003 a certified copy of which was issued to him, which according to him is the correct resolution. The petitioner then at Exhibit "P" draws our attention to another resolution of the same day in respect of the same subject matter which is contrary to the first resolution. The learned Counsel for the petitioner states that this has been substituted and the correct resolution is at page 23 of the Writ Petition, which we have referred to earlier. In the first Resolution no decision was taken to acquire whereas in the second resolution it purports to acquire the property.

3. The petitioner has made various representations to the Collector commencing from 4th January, 2006.

Considering that the matter involves finding of fact and apart from that if there be an illegal resolution it is open to the Collector to suspend the same in exercise of his powers under Section 308 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act, 1965. We direct the Collector to consider the application under Section 308 and thereafter pass appropriate order according to law at any rate not later than eight weeks from the copy of this order being served on the Collector. Rule made absolute accordingly. No order as to costs. We make it clear that all issues are kept open and we have not decided any issue on merits. It will be open to the petitioner to apply for stay of acquisition before the Collector.

(**F.I.REBELLO**, J)

(**R.M.SAVANT,J**.)